

AMENDED IN ASSEMBLY JULY 3, 2013

AMENDED IN SENATE APRIL 4, 2013

**SENATE BILL**

**No. 767**

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**Introduced by Senator Lieu**

February 22, 2013

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An act to amend Section 399.12.6 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 767, as amended, Lieu. Public utilities: California Renewables Portfolio Standard Program: biomethane.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, as defined. The existing California Renewables Portfolio Standard Program (RPS program) requires a retail seller of electricity, as defined, and a local publicly owned electric utility to purchase specified minimum quantities of electricity products from eligible renewable energy resources, as defined, for specified compliance periods. Existing law requires the procurement of biomethane delivered through a common carrier pipeline under a contract, as provided, to count toward the procurement requirements established by the RPS program, under rules in place at the time the contract was executed, provided that the rules apply only to sources that are producing biomethane and injecting it into a common carrier pipeline on or before April 1, 2014.

This bill would amend that date to ~~April 1~~, *January 31*, 2015.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 399.12.6 of the Public Utilities Code is amended to read:

399.12.6. (a) (1) Any procurement of biomethane delivered through a common carrier pipeline under a contract executed by a retail seller or local publicly owned electric utility and reported to the Energy Commission prior to March 29, 2012, and otherwise eligible under the rules in place as of the date of contract execution shall count toward the procurement requirements established in this article, under the rules in place at the time the contract was executed, including the Fourth Edition of the Energy Commission's Renewables Portfolio Standard Eligibility Guidebook, provided that those rules shall apply only to sources that are producing biomethane and injecting it into a common carrier pipeline on or before ~~April 1, January 31, 2015.~~

(2) The eligibility requirements of subdivision (b) shall apply beginning March 29, 2012, to any quantities of biomethane associated with any of the following:

(A) An extension of the term of the original contract.

(B) Any quantity of biomethane that exceeds the quantities of biomethane specified in the original contract.

(C) Any optional quantities of biomethane that can be exercised at the discretion of the buyer.

(D) Any change in the source or sources of biomethane identified in the original contract or the original application for certification submitted to the Energy Commission.

(E) Any quantity of biomethane from a source not producing and capturing biomethane and injecting it into a common carrier pipeline on or before ~~April 1, January 31, 2015.~~

(F) The conditions of this paragraph shall apply beginning March 29, 2012.

(b) For contracts initially executed on or after March 29, 2012, or for quantities of biomethane associated with contract amendments executed on or after March 29, 2012, the use of biomethane by a generating facility shall not qualify as an eligible renewable energy resource unless it satisfies all applicable requirements established by the Energy Commission and meets any of the following requirements:

(1) The biomethane is used by an onsite generating facility.

1 (2) The biomethane is used by an offsite generating facility and  
2 delivered to the generating facility through a dedicated pipeline.

3 (3) The biomethane is delivered to a generating facility through  
4 a common carrier pipeline and meets all of the following  
5 requirements:

6 (A) The source of biomethane injects the biomethane into a  
7 common carrier pipeline that physically flows within California  
8 or toward the generating facility for which the biomethane was  
9 procured under the original contract.

10 (B) The source of biomethane did not inject biomethane into a  
11 common carrier pipeline prior to March 29, 2012, or the source  
12 commenced injection of sufficient incremental quantities of  
13 biomethane after March 29, 2012, to satisfy the contract  
14 requirements.

15 (C) The seller or purchaser of the biomethane demonstrates that  
16 the capture and injection of biomethane into a common carrier  
17 pipeline directly results in at least one of the following  
18 environmental benefits to California:

19 (i) The reduction or avoidance of the emission of any criteria  
20 air pollutant in California.

21 (ii) The reduction or avoidance of pollutants that could have an  
22 adverse impact on waters of the state.

23 (iii) The alleviation of a local nuisance within California that  
24 is associated with the emission of odors.

25 (c) For all electricity products generated using biomethane that  
26 are credited toward the renewables portfolio standard procurement  
27 obligations established pursuant to this article, sufficient renewable  
28 and environmental attributes of biomethane production and capture  
29 shall be transferred to the retail seller or local publicly owned  
30 electric utility that uses that biomethane to ensure that there are  
31 zero net emissions associated with the production of electricity  
32 from the generating facility using the biomethane. The provisions  
33 of this subdivision shall be applied in a manner consistent with  
34 the definition of “green attributes” as specified by the commission  
35 in Decision 08-08-028, Decision on Definition and Attributes of  
36 Renewable Energy Credits for Compliance with the California  
37 Renewables Portfolio Standard (August 21, 2008), as may be  
38 modified by subsequent decision of the commission.

39 (d) All sellers and purchasers of biomethane shall comply with  
40 a system for tracking and verifying the use of biomethane, as

1 established by the Energy Commission, that is equivalent to the  
2 system required by subdivision (c) of Section 399.25.

3 (e) For contracts initially executed on or after March 29, 2012,  
4 or for quantities of biomethane associated with contract  
5 amendments executed after March 29, 2012, the use of biomethane  
6 shall be assigned to the appropriate portfolio content category  
7 based on the application of the criteria in subdivision (b) of Section  
8 399.16 to the procurement of electricity by the retail seller or local  
9 publicly owned electric utility from the generating facility  
10 consuming the biomethane.

11 (f) A retail seller, local publicly owned electric utility, or an  
12 intermediary party to a biomethane procurement contract shall not  
13 make a marketing, regulatory, or retail claim that asserts that a  
14 biomethane procurement contract to which that entity was a party  
15 resulted, or will result, in greenhouse gas reductions related to the  
16 destruction of methane if the capture and destruction is required  
17 by law. If the capture and destruction of the biomethane is not  
18 required by law, a retail seller, local publicly owned electric utility,  
19 or an intermediary party to a biomethane procurement contract  
20 shall not make a marketing, regulatory, or retail claim that asserts  
21 that a biomethane procurement contract to which that entity was  
22 a party resulted, or will result, in greenhouse gas reductions related  
23 to the destruction of methane, unless the environmental attributes  
24 associated with the capture and destruction of the biomethane  
25 pursuant to that contract are transferred to the retail seller or  
26 publicly owned electric utility that purchased that biomethane and  
27 retired on behalf of the retail customers consuming the electricity  
28 associated with the use of that biomethane, or unless the  
29 biomethane procurement contract prohibits the source of  
30 biomethane from separately marketing the environmental attributes  
31 associated with the capture and destruction of the biomethane sold  
32 pursuant to that contract. These attributes shall be retired and may  
33 not be resold.

34 (g) For the purposes of this section, “biomethane” means landfill  
35 gas or digester gas, consistent with Section 25741 of the Public  
36 Resources Code.

37 (h) If any provision of this section or the application of any  
38 provision of this section is held invalid, biomethane delivered  
39 through a common carrier pipeline pursuant to a contract executed  
40 within 180 days of, or at any time subsequent to, the invalidation

1 of that provision shall not qualify as an eligible renewable energy  
2 resource.

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